

GODFREY, LEIBSLE,  
BLACKBOURN & HOWARTH, S.C.  
ATTORNEYS AT LAW

*Providing Quality Legal Service Since 1922*

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April 13, 2015

Wisconsin Department of Health Services  
Division of Quality Assurance  
Attn: Records Custodian  
P.O. Box 2969  
Madison, WI 53701-2969

**RE: Public Records Request**

Dear Records Custodian:

I hereby request copies of reports and other documents relating to any DHS investigation of violation of the Emergency Medical Treatment and Active Labor Act, 42 U.S.C. § 1395dd, relating to or arising from the report attached hereto, or relating to or arising from any patient referenced in the report attached hereto. My firm will pay the prescribed cost for copying, but please contact me at the direct line above if the cost will exceed \$50.00. Thank you for your attention.

Very truly yours,

GODFREY, LEIBSLE,  
BLACKBOURN & HOWARTH, S.C.

By:

  
Michael J. Frazier

MJF:jks  
Enclosure

cc: Dr. Kamal Muzaffar  
Mr. Lisle W. Blackburn

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EXHIBIT A

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  1062	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____		(X3) DATE SURVEY COMPLETED  C 08/24/2010
NAME OF PROVIDER OR SUPPLIER  MERCY WALWORTH HOSPITAL & MEDICAL C			STREET ADDRESS, CITY, STATE, ZIP CODE 12980 STATE ROAD 87 LAKE GENEVA, WI 53147		
(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE	
R 000	<p><b>INITIAL COMMENTS</b></p> <p>Surveyor: 26711 An unannounced on-site survey was conducted at Mercy Walworth Hospital in Lake Geneva, WI from 8/23/2010-8/24/2010 for complaint #W100016220.</p> <p>Mercy Walworth Hospital was found to be out of compliance with WI Administrative Code for Hospitals, DHS 124, in the areas of Patient Rights, Nursing Services, and Medical Records.</p> <p>The following abbreviations are used throughout this statement of deficiency: RN=Registered Nurse, ER=Emergency Room, MD=Medical Doctor, PL=Patient.</p>	R 000			
R 247	<p><b>124.05(3)(a)1.I. GOVERNING BODY - POLICIES</b></p> <p>Patient rights and responsibilities. Every hospital shall have written policies established by the governing board on patient rights and responsibilities which shall provide that:</p> <p>Except in emergencies, the patient may not be transferred to another facility without being given a full explanation for the transfer, without provision being made for continuing care and without acceptance by the receiving institution;</p> <p>This Rule is not met as evidenced by: Surveyor: 26711 Based on policy/procedure review, review of facility's transfer form (COBRA form), staff interviews, and medical record reviews, this facility failed to document the risks and benefits</p>	R 247			

For long term care providers, a plan of correction is required for class A, B, & C violations.

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

TITLE

(X6) DATE

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XVQZ11

If continuation sheet 1 of 8

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R 247	<p>Continued From page 1</p> <p>for transfers to a higher level of care facility when such transfers occurred, in 6 out of 6 medical records reviewed (Patients #10, 11, 12, 13, 14, and 15) out of a total of 16 records reviewed. Failure to document individualized risks and benefits to patients related to transfers fails to identify the unique needs of each patient requiring an advanced level of care.</p> <p>Findings include:</p> <p>Facility policy titled, "Patient Rights and Responsibilities," dated 5/26/09 and reviewed by Surveyor #26711 on 8/23/2010 at 3:30 p.m., states on page 2, 2.7, that patients have, "The right, except in emergencies, not to be transferred to another facility without being given a full explanation of the transfer, without provision being made for continuing care, and without acceptance by the receiving institution."</p> <p>Facility policy titled, "EMTALA Screening, Treatment &amp; Transfer of Patients," dated 6/12/09 and reviewed by Surveyor #26711 on 8/23/2010 at 3:30 p.m., states in section D. Patient Transfers, 1.0, b., "Physician Certification...The certification must contain a summary of the specific risks and benefits on which it is based."</p> <p>The facility's transfer form (COBRA form) is a computer generated form which reiterates Federal EMTALA (Emergency Medical Treatment and Active Labor Act) regulations and language. There are seven sections to this form: Patient's Condition; Reason for Transfer; Transfer Requirements; Consent; Certification; Items sent with Patient; and Nurse Certification.</p> <p>The section titled, "Patient's Condition," is a computer generated statement and does not</p>	R 247			

For long term care providers, a plan of correction is required for class A, B, & C violations.

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If continuation sheet 2 of 9

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R 247	<p>Continued From page 2</p> <p>include any medical information about the patient at all. It is the same for all 6 patients.</p> <p>The section titled, "Reason for Transfer," does not identify why the patient requires transfer to a higher level of care facility other than a computer generated statement that states, "...The medical benefits reasonably expected for the provision of appropriate medical treatment in another medical facility outweigh the increased risks, if any, to the individual's medical condition from effecting the transfer. Benefits include definitive care not available at our facility and risks include a MVA (motor vehicle accident) and deterioration of condition during travel." This statement does not identify risks and benefits specific to the patient and is the same for all 6 patients.</p> <p>In an interview with RN Lead E on 8/23/2010 at 3:45 p.m., when asked where the documentation of the patient's risks and benefits for transfer would be, stated, "It would be in the dictation."</p> <p>In an interview with ER MD F on 8/24/2010 at 8:05-8:12 a.m., in response to the question, "How are risks and benefits of transfer documented?" MD F responded, "Risks and benefits are dictated, generally not hand written." MD F stated that if a patient leaves against medical advice then the risks and benefits might be written in on that form. MD F also stated that this is F's practice and cannot speak to what other MD's do.</p> <p>A review of Pt #10's ER record from 2/13/2010 was reviewed on 8/23/2010 at 1:10 p.m. Pt #10 came to the ER with chest pain, shortness of breath, and a very high blood sugar. Pt #10 signed a transfer form to be transferred to a higher level of care facility. There is no</p>	R 247			

For long term care providers, a plan of correction is required for class A, B, & C violations.  
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If continuation sheet 3 of 6

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STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  1062	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____		(X3) DATE SURVEY COMPLETED  C 08/24/2010
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R 247	<p>Continued From page 3</p> <p>documentation within the medical record stating what the benefits or risks for the transfer are.</p> <p>These findings were confirmed by RN Manager D and RN Lead E on 8/23/2010 at 3:45 p.m.</p> <p>A review of Pt. #11's ER record from 1/19/2010 was reviewed on 8/24/2010 at 8:50 a.m. Pt. #11 came to the ER with mild anemia (low oxygen level in the blood), thrombocytopenia (low platelets-abnormal bleeding time) and other medical problems. Pt. #11 signed a transfer form to be transferred to a higher level of care facility. There is no documentation within the medical record stating what the benefits or risks for the transfer are.</p> <p>A review of Pt. #12's ER record from 6/12/2010 was reviewed on 8/24/2010 at 9:03 a.m. Pt. #12 came to the ER with right leg cellulitis (inflammation/infection of the tissues) and also had an extensive medical history. Pt. #12 signed a transfer form to be transferred to a higher level of care facility. There is no documentation within the medical record stating what the benefits or risks for the transfer are.</p> <p>A review of Pt. #13's ER record from 6/26/10 was reviewed on 8/24/2010 at 9:10 a.m. Pt. #13 came to the ER with a kidney infection. Pt. #13 signed a transfer form to be transferred to a higher level of care facility. There is no documentation within the medical record stating what the benefits or risks for the transfer are.</p> <p>A review of Pt. #14's ER record from 1/19/2010 was reviewed on 8/24/2010 at 8:50 a.m. Pt. #14 came to the ER with a kidney infection. Pt. #14 signed a transfer form to be transferred to a higher level of care facility. There is no</p>	R 247			

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If continuation sheet 4 of 8

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R 247	<p>Continued From page 4</p> <p>documentation within the medical record stating what the benefits or risks for the transfer are or what the reason for transfer is.</p> <p>A review of Pt. #15's ER record from 1/19/2010 was reviewed on 8/24/2010 at 8:50 a.m. Pt. #15 came to the ER with restricted blood flow to the left hand and a heart problem. Pt. #15 signed a transfer form to be transferred to a higher level of care facility. There is no documentation within the medical record stating what the benefits or risks for the transfer are or what the reason for transfer is.</p> <p>These findings were confirmed by RN Manager D on 8/24/2010 at 9:30 a.m.</p>	R 247			

For long term care providers, a plan of correction is required for class A, B, & C violations.

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